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FOUNDED 1866

March 3, 2009

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

Re: MB Docket No. 09-17
Implementation of the DTV Delay Act
Presentation of Tribune Broadcasting and Allbritton Communications
Ex Parte Notice

Dear Ms. Dortch:

Tribune Broadcasting Company ("Tribune") and Allbritton Communications Company ("Allbritton"), by their undersigned counsel, hereby submit this ex parte letter urging the Commission to change its determination in the *Second Report & Order* in the above-referenced DTV Delay Act proceeding that "there is no need" to extend the phased transition provisions of *Third DTV Periodic Report & Order* beyond August 17, 2009 - the date six months from the initial February 17, 2009 DTV transition deadline.

Specifically, Tribune and Allbritton urge the Commission to set aside this decision and extend the phased transition deadline for six full months until December 12, 2009 for those stations that must remove top-mount analog antennas and then install top-mount, post-transition digital antennas (hereinafter "top-mount, side-mount stations"). As demonstrated below, there are a number of factors beyond the control of these stations that could delay the completion of construction beyond the current phased transition deadline of August 17.

If the Commission does not change this policy and instead insists on the completion of the necessary top-mount antenna removals and top-mount digital installations by June 12, it will inevitably force these stations to discontinue analog operations well before June 12 -- a result that is directly at odds with the Commission's interests in this proceeding as expressed recently by Acting Chairman Copps:

I am happy to report that some broadcasters have already stepped up to the plate and expressed their commitments to staying on the air until June 12. These broadcasters are truly serving the public interest by giving real-world meaning to

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what Congress did yesterday. I agree wholeheartedly with what Senator Rockefeller said yesterday: "put consumers first."¹

There are several reasons why all these stations cannot complete the removal of top-mount analog antennas and the installation of top-mount digital antennas cannot complete this work by August 17.

1) There are not enough qualified tower crews to remove and then install all the top-mount antennas in two months. These tower crews need the equipment and ability to lift an 18,000 lb antenna 500 to 1200 feet in the air and place it without damaging the tower. Top mount placement also requires a specialized jin-pole to which not all crews have access.

The removal and/or installation of a top-mount, broadcast antenna cannot be done by just any tower crew, including especially those crews that do antenna work for wireless telephone companies. Antenna placements for wireless companies can often be done with a drum winch on a pickup truck.

2) Stations in the south and Mid-west face a real threat of weather related delays in the summer. Tornados and heavy thunderstorms with high winds are routine parts of summer weather in these areas of the country. Thus, while the risk of weather delays from the snow and ice are obviously dissipated in June, it would be a mistake to assume that the risk of weather delays has vanished.

3) Transmitter and antenna manufacturers do not have enough personnel to trouble shoot the start up of every new, top-mount digital operation in two months. For example, Allbritton's KATV in Little Rock just commenced full-power operation from a new 1200 foot tower. The station also installed a brand new transmitter, transmission line and antenna. Despite the fact that the transmission equipment was brand new, the transmitter manufacturer (Dielectric) had highly-skilled technical people on hand for nearly two weeks to ensure that the transmission system was operating properly. Dielectric does not have enough qualified employees to support the start-up of every top-mount, side-mount station by August 17.

4) Stations operating on towers with multiple broadcast tenants will need to coordinate the installation/tower work with those tenants. This coordination has to be done in conjunction with the availability of the tower crew. We recognize that coordination problems with other broadcasters was a separate unique technical challenge

¹ See Remarks of Acting Chairman Michael J. Copps En Banc Hearing on Digital Television at 2 (rel. Feb. 5, 2009).

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justification. However, the likelihood is that a number of top-mount, side-mount stations did not take the time to identify this secondary source of potential delay.

5) In many of the top mount/side mount installations, temporary antennas will be needed to provide interim DTV coverage until the main antenna is installed. Temporary antennas are in short supply. If the FCC decides to condense all these installations into two months, stations will be required to settle for make-shift antennas that will under-serve the market even if on paper they project to serve the minimum 85 percent requirement.

6) Some towers will require modifications to support the new antenna. This will also delay the installation process.

Given these potential sources for delay, stations will have no choice but to discontinue analog operations soon to have a fighting chance of completing construction by June 12. This is directly at odds with the Commission's own comments regarding the recent Congressional decision to extend the transition deadline. Specifically, the Commission recognized that the DTV Delay Act was passed by Congress "to permit analog service to continue until consumers have additional time to prepare."² It has also commended "the two-thirds of stations that will remain on the air, providing analog service beyond February 17, 2009."³ Tribune and Allbritton submit that the Commission's decision not to extend the phased transition deadline for a full six months will produce the very result that Congress and the Commission do not want.

² See Public Notice, *FCC Releases Lists of Stations Whose Analog operations Terminate Before February 17, 2009*, FCC 09-6 (February 5, 2009). See also Public Notice, *FCC Requires Public Interest Conditions for Certain Analog TV Terminations on February 17, 2009*, FCC 09-7, p.2, released February 11, 2009 ("We appreciate that many of these stations are committed to continuing to provide analog service to their viewers until the new DTV transition deadline of June 12, 2009.").

³ See Public Notice, *FCC Requires Public Interest Conditions for Certain Analog TV Terminations on February 17, 2009*, FCC 09-7, p.2, released February 11, 2009. The Commission went on to comment that "[w]e appreciate that many of these stations are committed to continuing to provide analog service to their viewers until the new DTV transition deadline of June 12, 2009." *Id.*

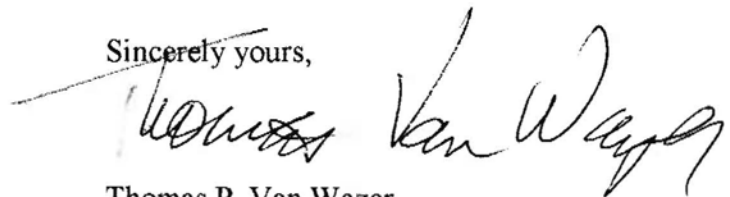
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For all these reasons, Tribune and Allbritton urge the Commission to reconsider its initial determination and extend the phased transition period for stations with top-mount, side-mount installations a full six months beyond the new DTV deadline of June 12, 2009. Contrary to the Commission's apparent assumption that warm weather will magically cure all the causes for delay, there are a number of factors that could delay the build-out period for top-mount, side-mount stations by a full six months.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas Van Wazer", with a long horizontal line extending to the left.

Thomas P. Van Wazer

Counsel to Tribune Broadcasting Company &
Allbritton Communications Company